

It's Not Over until it's Over – An Overview of Adult Child Support in Alberta

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Presented by:
Jonathan F. Griffith
Dunphy Best Blocksom LLP
Calgary, Alberta

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IT'S NOT OVER UNTIL IT'S OVER – AN OVERVIEW OF ADULT CHILD SUPPORT IN ALBERTA

Jonathan Griffith¹

With assistance and contribution from Madison Brush²

Parents sometimes learn just how expensive it is to raise children in Canada after consulting with their lawyers about their child support obligations. We've all seen some of our clients' eye bulge out of their heads as they struggle with the price tag on child support. Some clients attempt to reassure themselves by muttering something like "well, at least it's only until they're 18." If you're like me, it's hard to keep from cringing as you advise them that "that's not entirely accurate."

To make matters worse, the law respecting child support for adult children is somewhat less clear than it is for children who are under the age of majority. The *Child Support Guidelines* provide relatively certain direction on how one determines child support for minor children. However, a host of unique challenges arise when the children in question are over the age of majority.

This paper surveys the law of support in Alberta as it relates to adult children. It starts with an analysis of entitlement to child support, followed by a look at establishing the quantum of child support. The third section of this paper explores some common issues that come up when contemplating support for adult children.

I. ENTITLEMENT

Applicants seeking support for adult children bear the onus of establishing entitlement to support.³ This is an important step as overlooking it could mean the dismissal of the claim⁴ or at least the additional cost of multiple court hearings.⁵

Despite the inherent *parens patriae* jurisdiction that the Court has respecting children, child support is entirely a creature of statute. In Alberta, Courts derive the authority to direct a parent to pay child support either from the *Divorce Act*⁶ or the *Family Law Act*.⁷ In most child support cases lawyers tend to skip over these statutes because children under the age of majority are presumptively entitled to child support. However, there is no such presumption for adult children.

¹ Jonathan Griffith is a lawyer and mediator practicing family law with Dunphy Best Blocksom LLP in Calgary, AB

² Madison Brush is a lawyer practicing family law with Dunphy Best Blocksom LLP in Calgary, AB

³ *Pollard v. Pollard*, 1999 ABQB 976; *J.M.B. v. A.B.C.*, 2006 ABCA 150; *Wahl v. Wahl*, 2000 ABQB 10

⁴ *Kohan v. Kohan*, 2016 ABCA 125

⁵ See: *McLean v. McLean* 2013 ABQB 700 and 2014 ABQB 93

⁶ RSC 1985, c 3 (2nd Supp)

⁷ SA 2003, c F-4.5